



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2018-0929]

RIN 1625-AA08

Special Local Regulations; Marine Events in the Coast Guard Sector Detroit

Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is updating its recurring special local regulations in the Captain of the Port Detroit. This rule updates fifteen special local regulation locations, dates, and sizes, adds six special local regulations, removes six established special local regulations, and reformats the regulations into an easier to read table format. These amendments will ensure safety of life on navigable waters to be used for a various events immediately prior to, during, and immediately after these events.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0929 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9564, e-mail Tracy.M.Girard@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On October 17, 2018 the Coast Guard published an NPRM in the Federal Register (83 FR 52333) entitled “Special Local Regulations; Marine Events in the Coast Guard Sector Detroit Captain of the Port Zone.” The NPRM proposed to establish fifteen permanent special local regulations for annually recurring events in the Captain of the Port Detroit Zone under § 100.911. The NPRM was open for comment for 30 days. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these special local regulations. During the comment period that ended November 17, 2018, we received two comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Detroit (COTP) has determined that the likely combination of recreation vessels, commercial vessels, and an unknown number of spectators in close proximity to these various special local regulations along the water pose extra and unusual hazards to public safety and property. Therefore, the COTP is establishing a

Special Local Regulation around the event locations listed in table to help minimize risks to safety of life and property during this event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two positive comments encouraging this rule on our NPRM published October 17, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule updates fifteen special local regulation locations, dates, and sizes, adds six special local regulations, removes six established special local regulations, and reformats the regulations into an easier to read table format. The exact duration and dates of the special local regulations will be determined annually. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect spectators, vessels, and participants. No vessel or person will be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a

“significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day for each special local regulation. Vessel traffic will be able to safely transit most safety zones which will impact small designated areas within the COTP zone for short durations of time. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have

a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule updates fifteen special local regulation locations, dates, and sizes, adds six special local regulations, removes six established special local regulations, and reformats the regulations into an easier to read table format. It is categorically excluded from further review under paragraph L[60] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this

determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Revise § 100.911 to read as follows:

§100.911 Special Local Regulations; Marine Events in the Coast Guard Sector Detroit Captain of the Port Zone.

(a) *General.* The regulations in this section apply to the marine events listed in Table 1 to §100.911, along with the requirements of §100.901. These regulations will be enforced for the duration of each event, on or about the dates indicated. Annual notice of the exact dates and times of the effective period of the regulations with respect to each event, the geographical area, and details concerning of the event will be made by publication in the Federal Register via a Notice of Enforcement, published in a Local

Notices to Mariners, and broadcast over VHF-FM radio. Although listed in the Code of Federal Regulations, sponsors of events listed in the table to §100.911 are still required to submit marine event applications in accordance with §100.15.

(b) *Special local regulations.* (1) No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

(3) All geographic coordinates in Table 1 to § 100.911 are North American Datum of 1983 (NAD 83).

Table 1 to § 100.911

COTP Zone Detroit		
Event	Sector Detroit Special Local Regulations	Date
(1) <u>Hebda Cup</u> <u>Rowing Regatta</u> Rowing Event Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	Two days in April or May
(2) <u>Wy-Hi</u> <u>Rowing Regatta</u> Rowing Event - Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	Two days in April or May
(3) <u>Wyandotte</u> <u>Rowing Regatta</u> Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	Two days in April or May
(4) <u>Motor City Mile</u> Swimming Event Detroit, MI	All waters of the Detroit River, Belle Isle Beach between the following two lines: the first line is drawn directly across the channel from position 42°20.517'N, 082°59.159'W to 42°20.705'N, 082°59.233'W; the second line, to the north, is drawn directly across the channel from position 42°20.754'N, 082°58.681'W to 42°20.843'N, 082°58.792'W.	One day in June or July
(5) <u>Wyandotte</u> <u>Invites</u> Rowing Event Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	One day in July or August
(6) <u>Roar on the</u> <u>River</u> Powerboat Race Trenton, MI	All U.S. waters of the Trenton Channel bounded by an east/west line starting at a point on land at the northern end of Elizabeth park in Trenton, MI, located at position 42°8.2'N; 083°10.6'W, extending east to a point near the center of the Trenton Channel at position 42°8.2'N; 083°10.4'W, extending South to the Grosse Ile Parkway Bridge located at position 42°7.7'N; 083°10.5'W, west to the shore.	Three consecutive days in July or August

(7) <u>St. Clair River Classic</u> Power Boat Race St. Clair, MI	All U.S. waters of the St. Clair River bounded by latitude 42°50.5'N to the north and latitude 42°48.5'N to the south; the shoreline of the St. Clair River on the west; and the international boundary line on the east.	One weekend in July or August
(8) <u>Marine City Water Ski Show</u> Marine City, MI	All U.S. waters of the St. Clair River 200 feet seaward of latitude position 42°43.382'N, and to the south by 2,000 feet to 200 feet seaward of latitude position 42° 42.983'N.	One day at the end of July or beginning of August
(9) <u>Detroit Hydrofest</u> Power Boat Race Detroit, MI	All U.S. waters of the Detroit River in Scott Middle Ground, north of Belle Isle, Michigan, starting at positions 42°20.506'N, 083°00.016'W, on the Douglas MacArthur Bridge; extending east to the Belle Isle Crib Light at 42°21.205'N, 082°57.996'W.	Three consecutive days in August or September
(10) <u>Bay City Grand Prix</u> Powerboat Races Bay City, MI	All waters of the Saginaw River bounded on the north by the Liberty Bridge, located at 43°36.3' N, 083°53.4' W, and bounded on the south by the Veterans Memorial Bridge, located at 43°35.8' N, 083°53.6' W.	One weekend at the end of June or beginning of July
(11) <u>Tug Across the River</u> Detroit, MI	All U.S. waters of the Detroit River, Detroit, Michigan, bounded on the south by the International boundary, on the west by 083°03' W, on the east by 083°02' W, and on the north by the U.S. shoreline. This position is located on the Detroit River in front of Hart Plaza, Detroit, MI.	One day in June or July
(12) <u>Michigan Championships</u> Swimming Event Detroit, MI	All waters of the Detroit River and Belle Isle Beach between the following two lines: the first line is drawn directly across the channel from position 42°20.517'N, 082°59.159'W to 42°20.705'N, 082°59.233'W; the second line, to the north, is drawn directly across the channel from position 42°20.754'N, 082°58.681'W to 42° 20.997'N, 082° 58.846'W.	One day in August or September
(13) <u>Bay City Tall Ships</u> Parade of Sail Bay City, MI	All waters throughout the federal navigational channel of Saginaw Bay from Light Buoy 11 at position 43°43.90'N, 083°46.87'W and Light 12 at position 43°43.93'N, 083°46.95'W to the Saginaw River, and on all waters of the Saginaw River from its mouth to the Veterans Memorial Bridge in Bay City, MI at position 43°35.77'N, 083°53.60'W.	Tri-annually in July
Event	Marine Safety Unit Toledo Special Local Regulations	Date
(14) <u>Frogtown Race Regatta</u> Toledo, OH	All waters of the Maumee River, Toledo, OH, from the Martin Luther King Jr. Memorial Bridge at River Mile 4.30 to the Michael DiSalle Bridge at River Mile 6.73.	One day in September

(15) <u>Dragon Boat Learning Festival</u> Toledo, OH	All waters of the Maumee River in Toledo, OH between the Martin Luther King Jr. Memorial Bridge at river mile 4.30 and a line extending from a point at position 41°38.78'N, 083°31.84'W at International Park straight across the river to shore near the mouth of Swan Creek at position 41°38.79'N, 083°32.03'W.	One day in June or July
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§§ 100.912 through 100.921, 100.927, and 100.928 [Removed]

3. Remove §100.912, §100.913, §100.914, §100.915, §100.916, §100.917, §100.918, §100.919, §100.920, §100.921, §100.927, and §100.928.

DATED: December 18, 2018

Jeffrey W. Novak
Captain, U. S. Coast Guard,
Captain of the Port Detroit

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